

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2004-0668-MLM-E TCEQ ID NO.: RN100209899 CASE NO.: 14811
RESPONDENT NAME: DEGUSSA ENGINEERED CARBONS, L.P.

Page 1 of 2

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 9300 Needlepoint Road, Baytown, Harris County

TYPE OF OPERATION: Plant

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 31, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Jim Sallans, Litigation Division, MC 175, (512) 239-2053

Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Ms. Nadia Hameed, Air Enforcement Section, MC R-12, (713) 767-3629

TCEQ Regional Contact: Mr. Joel Anderson, Houston Regional Office, MC R-12, (713) 767-3750

Respondent: Mr. Jimmy W. Boyd, Director of Engineering, Safety, Environmental and Governmental Affairs, Degussa Engineered Carbons, L.P., 701 Brazos, Suite 1050, Austin, Texas 78701

Respondent's Attorney: Ms. Sara Burgin, 1500 San Jacinto Center, 98 San Jacinto Boulevard, Austin, Texas 78701-2501

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Dates of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 7, 2002</p> <p>Dates of NOEs Relating to this Case: April 24, 2004 (NOE)</p> <p>Background Facts:</p> <p>The Facility is a carbon black production plant that exceeded its effluent limits for cyanide. In response to the enforcement action the Respondent sought an increase in its permit limits, which was denied. Additional negotiations resulted in the Agreed Order.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MLM:</p> <p>1. Failed to comply with final effluent limitations and monitoring requirements and failed to comply with effluent limitations under TPDES Permit No. 00737-000. Under the Respondent's permit, the cyanide limits were 0.017 milligrams per liter, and in April of 2002, the level of cyanide measured 0.068 milligrams per liter-122% more than the Respondent was allowed under its permit [30 TEX. ADMIN. CODE §305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. 00737-000, Final Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2. Failed to submit timely to the TCEQ an Annual Compliance Report (Form ECT-1) and failed to properly report a quantity of allowances in the Plant's compliance account that is equal to or greater than the total emissions of nitrogen oxides during the 2002 control period [30 TEX. ADMIN. CODE §§ 101.352(b) and 101.359 and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$51,510</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$51,510</p> <p>The Respondent has paid the administrative penalty in full.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Order Justification: The violation involves an emission or discharge of contaminants to the environment, and environmental receptors have been exposed to pollutants which exceed levels that are protective.</p>	<p>Corrective Actions Taken</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant in response to this enforcement action:</p> <ol style="list-style-type: none"> 1. Immediately ceased operations at the Plant. 2. Prepared and submitted its Annual Compliance Report (Form ECT-1). 3. Paid all non hazardous waste generation fees assessed by the TCEQ. 4. Conducted extensive testing and analysis to improve compliance.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision November 6, 2007

TCEQ

DATES

Assigned

PCW

1-Feb-2008

Screening

21-Apr-2004

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Degussa Engineered Carbons, L.P.,

Reg. Ent. Ref. No. RN100209899

Facility/Site Region 12-Houston

Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No. 14811

Docket No. 2004-0668-MLM-E

Media Program(s) Air

Multi-Media

No. of Violations 1

Order Type Findings

Enf. Coordinator Nadia Hameed

EC's Team Enforcement Team 5

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1

\$2,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 27% Enhancement

Subtotals 2, 3, & 7

\$675

Notes

The Respondent received 15 NOVs for unrelated violations, submitted one Notice of Intent for Audit and one Disclosure of Violation.

Culpability

No

0% Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5

\$0

Extraordinary

Before NOV

NOV to EDPRP/Settlement Offer

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

Total EB Amounts

\$0

Approx. Cost of Compliance

\$0

0% Enhancement

*Capped at the Total EB \$ Amount

Subtotal 6

\$0

SUM OF SUBTOTALS 1-7

Final Subtotal

\$3,175

OTHER FACTORS AS JUSTICE MAY REQUIRE

0%

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

\$3,175

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$3,175

DEFERRAL

0%

Reduction

Adjustment

\$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

\$3,175

EXHIBIT

PCW1

Screening Date 21-Apr-2004

Docket No. 2004-0668-MLM-E

PCW

Respondent Degussa Engineered Carbons, L.P.,

Policy Revision 2 (September 2002)

Case ID No. 14811

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN100209899

Media [Statute] Air

Enf. Coordinator Nadia Hameed

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	15	30%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	1	-2%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 27%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The Respondent received 15 NOVs for unrelated violations, submitted one Notice of Intent for Audit and one Disclosure of Violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date 21-Apr-2004		Docket No. 2004-0668-MLM-E		PCW	
Respondent Degussa Engineered Carbons, L.P.,				Policy Revision 2 (September 2002)	
Case ID No. 14811				PCW Revision November 6, 2007	
Reg. Ent. Reference No. RN100209899					
Media [Statute] Air					
Enf. Coordinator Nadia Hameed					
Violation Number		<input type="text" value="1"/>			
Rule Cite(s)		30 Tex. Admin. Code § 101.352(b) and 101.359 and Tex. Health & Safety Code § 382.085(b)			
Violation Description		Failed to timely submit to the TCEQ an Annual Compliance Report (Form ECT-1) and failed to maintain a quantity of allowances in the Plant's compliance account that is equal to or greater than the total emissions of nitrogen oxides during the 2002 control period.			
Base Penalty					<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<input type="text" value="100% of the rule was not met."/>					

Adjustment

Violation Events

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="2"/>	Number of violation days
---	--------------------------------	--------------------------

mark only one with an x	daily	<input type="text"/>	Violation Base Penalty
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	x	

One single event is recommended.

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$0"/>	Violation Final Penalty Total	<input type="text" value="\$3,175"/>
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$3,175"/>

Economic Benefit Worksheet

Respondent Degussa Engineered Carbons, L.P.,

Case ID No: 14811

Reg. Ent. Reference No: RN100209899

Media Air

Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE (1) avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance (2)				0.0	\$0	\$0	\$0
ONE-TIME avoided costs (3)				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

TCEQ

DATES

Assigned 8-Mar-2004

PCW 29-Jul-2008

Screening 8-Mar-2004

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Degussa Engineered Carbons, L.P.,

Reg. Ent. Ref. No. RN100209899

Facility/Site Region 12-Houston

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 14811

Docket No. 2004-0668-MLM-E

Media Program(s) Water Quality

Multi-Media

Admin. Penalty \$ Limit Minimum

\$0

Maximum

\$10,000

No. of Violations 1

Order Type Findings

Enf. Coordinator Kimberly Morales

EC's Team Enforcement Team 5

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$30,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 66% Enhancement

Subtotals 2, 3, & 7 \$19,800

Notes

The Respondent has self reported 13 months of effluent violations and has received 2 NOV's for unrelated violations, submitted 1 Letter of Intent for audits and performed 1 environmental audit in the previous 5 years.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5 \$0

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

Total EB Amounts \$2,647
Approx. Cost of Compliance \$1,000

0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$49,800

OTHER FACTORS AS JUSTICE MAY REQUIRE

-3%

Adjustment -\$1,465

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Recommended reduction in penalty amount so that the monthly self-reported violations do not overly impact the penalty amount.

Final Penalty Amount \$48,335

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$48,335

DEFERRAL

0%

Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

\$48,335

EXHIBIT

tabbles

PCW 2

Screening Date 8-Mar-2004

Docket No. 2004-0668-MLM-E

PCW

Respondent Degussa Engineered Carbons, L.P.,

Policy Revision 2 (September 2002)

Case ID No. 14811

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100209899

Media [Statute] Water Quality

Enf. Coordinator Kimberly Morales

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	13	65%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	1	-2%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 66%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The Respondent has self reported 13 months of effluent violations and has received 2 NOVs for unrelated violations, submitted 1 Letter of Intent for audits and performed 1 environmental audit in the previous 5 years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 66%

Screening Date 8-Mar-2004

Docket No. 2004-0668-MLM-E

PCW

Respondent Degussa Engineered Carbons, L.P.,

Policy Revision 2 (September 2002)

Case ID No. 14811

PCW Revision: March 19, 2007

Reg. Ent. Reference No. RN100209899

Media [Statute] Water Quality

Enf. Coordinator Kimberly Morales

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 00737-000, Final Effluent Limitations and Monitoring Requirements No. 1 and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permitted limits for Cyanide Daily Average and Daily Maximum and Total Suspended Solids for the months of September and November 2001, January-February, April & September 2002. .

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was utilized to evaluate the values of Cyanide and Total Suspended Solids to determine whether the discharged amounts of pollutants exceed levels that are protective of human health and the environment. The pollutants discharged at the time of the violation were significant and did exceed the levels that are protective of human health and the environment.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 6

6 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$30,000

Six monthly events are recommended for the months of September and November 2001, January-February, April & September 2002.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,647

Violation Final Penalty Total \$48,335

This violation Final Assessed Penalty (adjusted for limits) \$48,335

Economic Benefit Worksheet

Respondent Degussa Engineered Carbons, L.P.,
Case ID No. 14811
Reg. Ent. Reference No. RN100209899
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$1,000	31-Aug-2001	8-Mar-2004	2.5	\$126	\$2,521	\$2,647
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost for additional oversight and sampling which might have reduced or alleviate the exceedances.

Approx. Cost of Compliance \$1,000

TOTAL \$2,647

Compliance History

Customer/Respondent/Owner-Operator:	CN600123988 Degussa Engineered Carbons, L.P.	Classification: AVERAGE	Rating: 2.660
Regulated Entity: ID Number(s):	RN100209899 BAYTOWN CARBON BLACK PLANT	Classification: AVERAGE	Site Rating: 0.74

AIR NEW SOURCE PERMITS	AFS NUM	0021
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0412M
AIR NEW SOURCE PERMITS	PERMIT	9294
AIR NEW SOURCE PERMITS	PERMIT	2596
AIR NEW SOURCE PERMITS	PERMIT	9694
AIR NEW SOURCE PERMITS	PERMIT	P1010
AIR NEW SOURCE PERMITS	EPA ID	PSDTX1010
WASTEWATER	PERMIT	TPDES0003832
WASTEWATER	PERMIT	WQ0000737000
PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1011038
WATER LICENSING	LICENSE	1011038
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30303
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD008096281
STORMWATER	PERMIT	TXR05N409
STORMWATER	PERMIT	TXR05P925
WASTEWATER LICENSING	LICENSE	WQ0000737000
STORMWATER	PERMIT	TXR05N409

Location: 9300 NEEDLEPOINT RD, BAYTOWN, TX, 77521 Rating Date: 9/1/03 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 01, 2004

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 13, 1999 to May 13, 2004

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Christina McLaughlin Phone: (512) 239-6589

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

2	11/15/1999	(156991)
4	11/18/2002	(156990)
6	11/16/2001	(156989)
8	11/17/2000	(156988)
10	11/15/1999	(156987)
12	10/21/2002	(156986)
14	10/22/2001	(156985)
16	10/16/2000	(156984)
18	09/09/2002	(156983)
20	08/19/2002	(5927)
22	09/14/2001	(156982)
24	09/20/2000	(156981)
26	10/22/2001	(156980)
28	08/19/2002	(156979)
30	08/20/2001	(156978)
32	08/17/2000	(156977)
34	07/19/2002	(156976)
36	07/16/2001	(156975)
38	07/21/2000	(156974)
40	06/06/2002	(156973)
42	06/15/2001	(156972)
44	06/20/2000	(156971)
46	10/05/1999	(103553)
48	10/05/1999	(103554)
50	05/16/2002	(156970)
52	12/17/1999	(103555)
54	05/10/2001	(156969)
56	01/10/2000	(103556)
58	07/16/2001	(103557)
60	05/17/2000	(156968)
62	02/13/2002	(103558)
64	02/14/2002	(103559)
66	04/19/2004	(269788)
68	04/08/2003	(156967)
70	03/07/2002	(103560)
72	06/04/2002	(103561)
74	04/15/2002	(156966)
76	04/16/2001	(156965)
78	04/17/2000	(156964)
80	03/21/2000	(156963)
82	03/20/2003	(156962)
84	03/25/2002	(156961)
86	03/21/2001	(156960)
88	06/04/2002	(122107)
90	02/21/2003	(156959)
92	03/07/2002	(122106)
94	02/14/2002	(122105)
96	02/25/2002	(156958)
98	02/09/2001	(156957)
100	02/13/2002	(122104)
102	02/22/2000	(156956)
104	07/16/2001	(122103)
106	01/10/2000	(122102)
108	12/17/1999	(122101)
110	10/05/1999	(122100)
112	10/05/1999	(122099)
114	01/02/2001	(40070)
116	01/02/2001	(40071)
118	08/22/2002	(5164)
120	02/09/2004	(262048)
122	01/18/2000	(156999)
124	01/10/2003	(156998)
126	08/24/2002	(6028)
128	01/24/2002	(156997)
130	01/18/2001	(156996)
132	12/15/1999	(156995)
134	12/16/2002	(156994)
136	12/27/2001	(156993)
138	12/18/2000	(156992)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 09/30/2002 (156986)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2001 (156985)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2002 (156983)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2001 (156982)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2002 (156973)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2002 (156970)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2003 (156967)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/19/2002 (103558)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.4
 Description: Failure to Comply
 (122104)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.4
 Description: Failure to Comply

Date: 06/04/2002 (103561)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.4
 Description: NUISANCE PROHIBITION
 (122107)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.4
 Description: NUISANCE PROHIBITION

Date: 03/31/2000 (156964)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2002 (156961)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2003 (156959)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2002 (156958)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2001 (156997)
 Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 11/30/2001 (156993)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

Notice of Intent Date: 03/06/2000
Disclosure Date: 12/12/2000
Citation: 30 TAC Chapter 116, SubChapter B 116.115(a) Viol. Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.111(a)(2)[G] Viol. Classification: Moderate Req Prpv: PERMIT Not specified
Citation: 30 TAC Chapter 116, SubChapter B 116.111(a)(2)[G] Viol. Classification: Moderate Req Prpv: PERMIT Not specified
Disclosure Date: 10/24/2000
Citation: 30 TAC Chapter 116, SubChapter B 116.115(a) Viol. Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.111(a)(2)[G] Viol. Classification: Moderate Req Prpv: PERMIT Not specified
Citation: 30 TAC Chapter 116, SubChapter B 116.111(a)(2)[G] Viol. Classification: Moderate Req Prpv: PERMIT Not specified
Description: Failed to establish an emission allowable for ammonia.

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DEGUSSA ENGINEERED
CARBONS, L.P.,
RN100209899**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2004-0668-MLM-E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Degussa Engineered Carbons, L.P. ("Degussa") under the authority of TEX. WATER CODE chs. 7, and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Degussa, presented this agreement to the Commission.

Degussa understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Degussa agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Degussa.

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Degussa owns and operates a plant located at 9300 Needlepoint Road, Baytown, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE §

382.003(12).

3. The Facility has discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
4. During an inspection on June 7, 2002, a TCEQ Houston Regional Office investigator documented:
 - a. Failed to comply with final effluent limitations and monitoring requirements and failed to comply with effluent limitations under TPDES Permit No. 00737-000. Under Degussa's permit, the cyanide limits were 0.017 milligrams per liter, and in April of 2002, the level of cyanide measured 0.068 milligrams per liter—122% more than Degussa was allowed under its permit; and
 - b. Failed to submit timely to the TCEQ an Annual Compliance Report (Form ECT-1) and failed to properly report a quantity of allowances in the Plant's compliance account that is equal to or greater than the total emissions of nitrogen oxides during the 2002 control period.
5. Degussa received notice of the violations on or about August 24, 2002 and April 24, 2004.
6. The Executive Director recognizes that Degussa has implemented the following corrective measures at the Plant in response to this enforcement action:
 - a. Immediately ceased operations at the Facility;
 - b. Prepared and submitted its Annual Compliance Report (Form ECT-1);
 - c. Paid all non hazardous waste generation fees assessed by the TCEQ; and
 - d. Conducted extensive testing and analysis to improve compliance.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1, 2, and 3, Degussa is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE §§ 7.002 and 26.121(a), and TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.

2. As evidenced by Finding of Fact No. 4.a., Degussa has failed to comply with final effluent limitations and monitoring requirements and failed to comply with effluent limitations under TPDES Permit No. 00737-000. Under Degussa's permit, the cyanide limits were 0.017 milligrams per liter, and in April of 2002, the level of cyanide measured 0.068 milligrams per liter—122% more than Degussa was allowed under its permit, in violation of 30 TEX. ADMIN. CODE § 305.125(1); TEX. WATER CODE § 26.121(a); and TPDES Permit No. 00737-000, Final Effluent Limitations and Monitoring Requirements No. 1.
3. As evidenced by Finding of Fact No. 4.b., Degussa has failed to submit timely to the TCEQ an Annual Compliance Report (Form ECT-1) and failed to properly report a quantity of allowances in the Plant's compliance account that is equal to or greater than the total emissions of nitrogen oxides during the 2002 control period, in violation of 30 TEX. ADMIN. CODE §§ 101.352(b) and 101.359 and TEX. HEALTH & SAFETY CODE § 382.085(b).
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Degussa for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of fifty-one thousand five hundred ten dollars (\$51,510.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Degussa has paid fifty-one thousand five hundred ten dollars (\$51,510.00) of the administrative penalty.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Degussa is assessed an administrative penalty in the amount of fifty-one thousand five hundred ten dollars (\$51,510.00) as set forth in Conclusion of Law No. 6 for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Degussa's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Degussa Engineered Carbons, L.P.; Docket No. 2004-0668-MLM-E; Enforcement ID No. 104811" to:

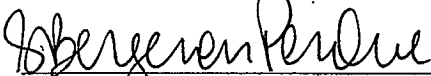
Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon Degussa. Degussa is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Degussa if the Executive Director determines that Degussa has not complied with one or more of the terms or conditions in this Agreed Order.
4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
5. This Agreed Order, issued by the Commission, shall not be admissible against Degussa in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of the Order to Degussa, or three days after the date on which the Commission mails notice of the Order to Degussa, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

2/21/08

Date

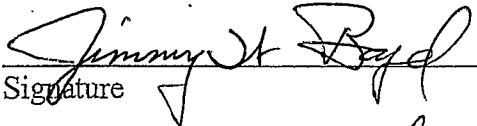
I, the undersigned, have read and understand the attached Agreed Order in the matter of Degussa Engineered Carbons, L.P. I represent that I am authorized to agree to the attached Agreed Order on behalf of Degussa Engineered Carbons, L.P., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Degussa Engineered Carbons, L.P. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

February 7, 2008

Date

Jimmy W. Boyd

Name (printed or typed)

Authorized Representative

Degussa Engineered Carbons, L.P.

Director of Engineering, Safety,
Title Environmental & Governmental
Affairs